

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MICHAEL FEHRENBACHER

Plaintiffs,

v.

XYBERNAUT CORPORATION,  
EDWARD G. NEWMAN, STEVEN A.  
NEWMAN, THOMAS D. DAVIS, BRUCE  
C. HAYDEN, and GRANT THORNTON  
LLP,

Defendants.

Case No. 05-256-SLR  
STIPULATION AND [PROPOSED]  
ORDER EXTENDING TIME FOR  
DEFENDANT TO ANSWER OR  
OTHERWISE RESPOND

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned parties  
and/or their counsel for the respective parties, as follows:

1. Drinker Biddle & Reath LLP is authorized to accept on behalf of defendant  
Thomas D. Davis, and does hereby accept, service of the summons and complaint in this action  
without prejudice and without waiver of Thomas Davis's defenses except as to sufficiency of  
service of process;
2. The time for Thomas Davis to move, answer or otherwise respond to the  
complaint in this action is hereby extended to and including forty-five (45) days after the later of:  
(a) the Court's selection of a lead plaintiff pursuant to §21D(a)(3) of the Securities Exchange Act  
of 1934, 15 U.S.C. §78a, *et seq.*, as amended by the private Securities Litigation Reform Act of  
1995 (the "PSLRA"), or (b) the date on which an amended consolidated complaint, if any, is  
served upon counsel for Thomas Davis.

Dated: June 28, 2005

Dated: June 29, 2005

**CHIMICLES & TIKELLIS LLP**

By: Robert Davis  
Pamela S. Tikellis (#2172)  
Robert J. Kriner (#2546)  
A. Zachary Naylor (#4439)  
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*Plaintiff's Counsel*

**DRINKER BIDDLE & REATH LLP**

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--and--

**DRINKER BIDDLE & REATH LLP**

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(215) 988-2757 (Fax)  
*Counsel for Defendant*  
*Thomas D. Davis*

SO ORDERED.

Dated: \_\_\_\_\_, 2005

\_\_\_\_\_  
United States District Judge